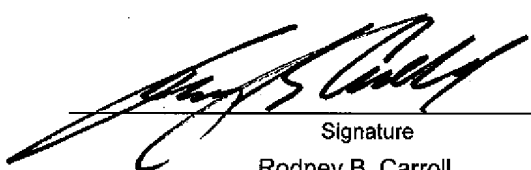


PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) IDF 1398 (4000-00700)	
<small>I hereby certify that this correspondence is being electronically submitted to the U. S. Patent and Trademark Office website, www.uspto.gov" [37 CFR 1.8(a)]</small>		<small>Application Number</small> 09/698,729	<small>Filed</small> 10/27/2000
on <u>9/4/2007</u> Signature <u>Edith Shek</u>		<small>First Named Inventor</small> Brandon Camp, et al.	
<small>Typed or printed name</small> <u>Edith S. Shek</u>		<small>Art Unit</small> 2195	<small>Examiner</small> Tang, Kenneth
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <div style="display: flex; justify-content: space-between;"><div style="width: 45%;"><p><input type="checkbox"/> applicant/inventor.</p><p><input type="checkbox"/> assignee of record of the entire interest. <small>See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</small></p><p><input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>39624</u></p><p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</p></div><div style="width: 45%; text-align: center;"> <small>Signature</small> Rodney B. Carroll <small>Typed or printed name</small> 972-731-2288 <small>Telephone number</small> <u>9-4-07</u> <small>Date</small></div></div> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p>			
<div style="display: flex; align-items: center;"><input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.</div>			

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

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2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

REASONS FOR REQUESTING PRE-APPEAL BRIEF REVIEW

Claims 1-21 are pending and are set out in the Response to Office Action filed on May 23, 2007.

By the Final Office Action dated August 10, 2007, claims 1-3 and 19-20 have been rejected under 35 USC § 102(e) over *Li*, U.S. Patent No. 6,519,594 B1 (hereinafter *Li*). Claims 4-6 and 21 stand rejected under 35 USC §103(a) in view of *Li*. Claims 7-18 stand rejected under 35 USC §103(a) over *Li* in view of Swartz et al., U.S. Patent No. 6,625,651 B1 (hereinafter *Swartz*). Thus, claims 1-21 stand or fall on the application of *Li* to claim 1.

According to MPEP §2131, “[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.”

Claim 1 reads:

1. A method for processing a batch job, comprising:
wrapping the batch job to create an application programming interface for communication with a batch framework, the batch framework comprising a batch dispatcher class, and the batch dispatcher class further comprising a method to execute the batch job; and
invoking the batch framework according to a predetermined schedule via execution of a command line parameter, wherein the method provides for efficient reuse of programming code and platform independence by encapsulating the batch job and providing a uniform application programming interface for processing the batch job according to the method.

Appellants submit that *Li* fails to teach each and every element as set forth in independent claim 1, and consequently fails to anticipate claims 1-3 and 19-20. Specifically, *Li* does not expressly or inherently disclose a batch job as defined in the specification, execution of a command line parameter to invoke the batch framework, or invoking the batch framework according to a predetermined schedule.

I. *Li* does not disclose a batch job.

The claims are directed to a software method for administrating batch jobs on a computer or a computer network. The specification at page 1, lines 9-13 defines a “batch job” as follows:

A batch job (also referred to as a batch program) is a computer software application (i.e., program) for performing some repetitive, low priority task that typically requires no direct external input (i.e., non-interactive, non-

conversational). Common examples of batch jobs include report generation (e.g., daily, weekly, monthly reports) and data updating, backup, and sorting.

One of the limitations of batch jobs is that they are written in a computer language (SQL, C++, Cobol, etc.) that is tightly coupled to the specific components and services that process the batch jobs. Because the batch jobs are often tightly coupled to the components and services that processes them, it may be difficult to reuse the batch job in a different domain without substantial modification. In order to provide for code reuse and platform independence, the batch jobs may be encapsulated (or wrapped) in a language-independent application programming interface (API).

Paragraph 6 of the Final Office Action has taken the unreasonably broad interpretation of a batch job as any computer software application. However, as recited in the definition reproduced above, a batch job performs a repetitive, low priority task that typically requires no external input. Therefore, it is clear that a batch job is not just any computer software application, but rather is a specific type of computer software application, namely one that performs a repetitive, low priority task. As discussed above, batch jobs may be written in a variety of computer languages based upon the domain in which the batch job is present, making the reuse of code in a different domain difficult without substantial modification and rewriting. Therefore, batch jobs in particular present a problem when reusing code because batch jobs may be written in a variety of computer languages.

The Final Office Action relied on disclosure of the application 170 depicted in Fig. 4 of *Li* and the disclosure of *Li* in column 2, lines 60-64 and column 4, lines 48-57 to read on the limitation of a batch job. Appellants note that *Li* discloses in column 2, lines 60-64 and column 4, lines 48-57 that implementing a Java Virtual Machine (JVM) on an operating system allows for a variety of applications to operate with the operating system. *Li* discloses that the variety of application may include “desktop applications, applets and internet based applications, home networking applications, MPEG applets, gaming, gaming applications and next generation audio-visual applications.” Appellants note that none of these applications are disclosed as or inherent of a batch job as specifically defined in the specification and described above. Therefore, *Li* **does not** disclose a “*batch job*.”

II. *Li* does not disclose invoking the batch framework via execution of a command line parameter.

As disclosed in lines 16-21 on page 5 of the specification, the batch framework 10 provides a simple and consistent command line interface for requesting that a batch job be executed, as recited in the pending claims.

The Final Office Action relied on disclosure in column 7, lines 42-65 and column 5, line 64 through column 6, line 2 of *Li* to read on these limitations. In column 5, line 64 through column 6, line 2, *Li* provides disclosure of a general purpose computer system 112 that may include an alphanumeric input device 106 and a directing device 107 for communicating user input information and command selections to a central processor 101. Appellants respectfully submit that this general disclosure of inputting command selections through a user input device does not provide any disclosure of executing the batch framework via execution of a command line parameter. Appellants note that the term “command line” is a term of art widely recognized by those skilled in the art. Appellants respectfully submit that the general disclosure of inputting command selections from an alphanumeric input device 106 is not disclosure or inherent of disclosure of a “command line” as would be recognized by those skilled in the art. For example, the general disclosure of the alphanumeric input device 106 may provide command selections in a MICROSOFT WINDOWS computer through selection of the WINDOWS key and selections made through the arrow and “Enter” keys. One skilled in the art will recognize that this is not disclosure of a “command line.” Further, assuming arguendo that the general disclosure of the alphanumeric input device 106 providing command selections does disclose a command line, there is no disclosure that these command selections are used to invoke the batch framework via execution of a parameter in the command line or a command line parameter.

Further, *Li* discloses in column 7, lines 42-65 provides for general description of the JavaLayer framework including disclosure that the JavaLayer framework may support JVM for multiple applications through sharing a scheduler and other features. Appellants respectfully submit that the cited portion of *Li* does not provide any disclosure on how the JavaLayer framework (interpreted as the batch framework by the Final Office Action) is invoked.

III. *Li* does not disclose invoking the batch framework according to a predetermined schedule.

As recited in claim 1, the API wrapping the batch job provides for communication with a batch framework, which comprises a batch dispatcher class that further comprises a method to

execute the batch job. Lines 4-6 on page 4 of the specification recite, “Batch job dispatcher class 100 is the main (i.e., public) entry point into batch framework 10, this is batch job dispatcher class 100 is the executable that is invoked in order to use the functionality provided by the framework.” As noted in the discussion of batch jobs on page 1 of the specification, a common example of a batch job includes report generation that may be periodically executed according to a schedule, such as a weekly report or a monthly report.

The Final Office Action relied on column 7, lines 42-65 of *Li* to read on these limitations. Column 7, lines 42-65 provides for general description of the JavaLayer framework including disclosure that the JavaLayer framework may support JVM for multiple applications through sharing a scheduler and other features. That is, *Li* discloses that a scheduler may be part of the JavaLayer framework (interpreted as the batch framework by the Final Office Action). *Li* does not disclose that the JavaLayer framework is invoked using the scheduler. As noted in paragraph 11 of the Office Action dated February 27, 2007, “*Li* is silent that there is a service performed in relation to the scheduler.” Further, *Li* does not disclose that the JavaLayer framework is invoked according to a predetermined schedule.

IV. Summary

As discussed in detail above, *Li* does not provide any express or inherent disclosure of a batch job as defined in the specification, execution of a command line parameter to invoke the batch framework, or invoking the batch framework according to a predetermined schedule. Because *Li* fails to disclose each and every element as set forth in claim 1, either expressly or inherently, the Final Office Action is unable to establish a *prima facie* case of anticipation. Accordingly, independent claim 1 and all of the dependent claims 2-21 are allowable over the prior art of record for the reasons discussed above.

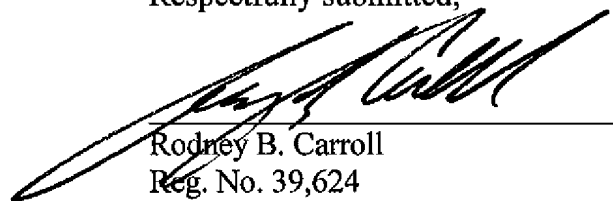
CONCLUSION

If any fee is due as a result of the filing of this paper, please appropriately charge such fee to Deposit Account Number 21-0765, Sprint. If a petition for extension of time is necessary in order for this paper to be deemed timely filed, please consider this a petition therefore.

If a telephone conference would facilitate the resolution of any issue or expedite the prosecution of the application, Examiner is invited to telephone the undersigned at the telephone number given below.

Respectfully submitted,

Date: 9-4-07


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